

**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA, et al. }
ex rel. BROOKS WALLACE, }
ROBERT FARLEY, and }
MANUEL FUENTES, }

Plaintiffs,

v.

EXACTECH, INC., }

Defendant. }

CIVIL ACTION NUMBER
2:18-CV-01010-LSC

**EXACTECH'S OBJECTIONS TO RELATORS'
DEPOSITION DESIGNATIONS**

Defendant Exactech, Inc. ("Exactech") responds and objects to Relators' Deposition Designations as follows.

Exactech objects to Relators' deposition designations in their entirety because Relators purport to designate the entire or near entire deposition transcript of each witness, which includes portions that are irrelevant, improper, and cumulative of other evidence, including but not limited to attorney colloquy and objections, court reporter and videographer colloquy, and improper lawyer statements (not testimony). Exactech has endeavored to object to Relators' designations as served but reserves the right to further object to specific testimony to be used at trial. Further, Exactech is unable to meaningfully counter-designate any testimony given that Relators designated all or nearly all of each transcript. Exactech reserves the

right to counter-designate specific testimony should Relators withdraw or decide not to use certain portions of testimony designated.

Subject to and without waiver of its general objections, Exactech specifically objects to Relators' Deposition Designations as set forth below:

Deponent: Luis Alvarez, February 9, 2022		
Relators' Designation	Exactech's Objections	Exactech's Counter Designations
1:1–206:10 ¹	See below.	Relators have designated the entire deposition transcript. Exactech reserves the right to counter designate any portion of Mr. Alvarez's transcript should Relators decide not to read the entire transcript at trial.
55:14–56:23	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
58:2–60:6	Misstates or mischaracterizes the evidence; 401; 403; lack of foundation; calls for speculation.	
60:7–63:22	Lawyer testifying; misstates or mischaracterizes the evidence; 401; 403; lack of foundation; calls for speculation.	
71:14–73:10	401; 403; misstates or mischaracterizes the evidence; lack of	

¹ Relators designated pages 1:1–206:10 of the deposition—the entire transcript.

	foundation; calls for speculation; leading.	
82:21–83:23	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
84:1–16	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
86:9–87:1	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
87:2–14	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
90:17–91:5	Lawyer testifying; misstates or mischaracterizes the evidence; 401; 403; lack of foundation; calls for speculation.	
97:11–98:10	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
98:11–99:6	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
99:15–100:2	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
100:3–22	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
101:1-102:12	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
103:6-106:10	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
106:16-107:1	Lawyer testifying; 401; 403; misstates or mischaracterizes the evidence.	
108:14-111:9	401; 403; misstates or	

	mischaracterizes the evidence; lack of foundation.	
111:13-113:5	401; 403; misstates or mischaracterizes the evidence; lack of foundation.	
118:4-122:3	Lawyer testifying; Lawyer statement (not testimony); misstates or mischaracterizes the evidence; 401; 403.	
125:7-127:10	Misstates or mischaracterizes the evidence; 401; 403.	
127:11-129:3	Misstates or mischaracterizes the evidence; 401; 403.	
131:16-132:15	Lawyer testifying; misstates or mischaracterizes the evidence; 401; 403; calls for speculation; lack of foundation; hearsay.	
132:19-134:22	Lawyer testifying; Lawyer statement (not testimony); misstates or mischaracterizes the evidence; 401; 403; hearsay.	
141:4-16	Lawyer testifying; misstates or mischaracterizes the evidence; 401; 403; calls for speculation.	
143:4-19	Lawyer statement (not testimony); misstates or mischaracterizes the evidence; 401; 403; hearsay.	
144:21-145:21	Misstates or mischaracterizes the evidence; 401; 403; lack of foundation; calls for speculation.	
147:5-149:11	Misstates or mischaracterizes the evidence; 401; 403; calls for speculation.	
151:1-152:12	Lawyer testifying; misstates or mischaracterizes the evidence; 401; 403; lack of foundation; hearsay.	
152:13-154:11	Lawyer testifying; misstates or mischaracterizes the evidence; 401; 403; lack of foundation; hearsay.	

168:11-170:23	Lawyer testifying; misstates or mischaracterizes the evidence; 401; 403; lack of foundation.	
177:6-19	Calls for speculation; 401; 403.	
177:20-178:13	Misstates or mischaracterizes the evidence; 401; 403; calls for speculation.	
188:19-189:14	Relevance.	
194:22-194:2	Misstates or mischaracterizes the evidence; 401; 403.	
198:7-22	Misstates or mischaracterizes the evidence; 401; 403; lack of foundation; hearsay.	
199:22-200:18	Misstates or mischaracterizes the evidence; 401; 403; lack of foundation.	
202:2-19	Misstates or mischaracterizes the evidence; 401; 403; lack of foundation; hearsay.	
Deponent: Brittney Dinatelo, January 27, 2022		
Relators' Designation	Exactech's Objections	Exactech's Counter Designations
33:4–149:5 ²	See below.	Relators have designated the majority of the deposition transcript. Exactech reserves the right to counter designate any portion of Ms. Dinatelo's transcript should Relators decide not to read the entirety of

² Relators designated pages 33:4–149:5, which is the entire transcript following the introductory questions.

		the transcript that they designated at trial.
41:7–42:1	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation; hearsay.	
42:2–7	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
66:15–21	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
66:22–67:11	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
98:4–7	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
106:22–107:5	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
113:13–114:8	Lawyer testifying; 401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
116:2–117:12	Lawyer testifying; 401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
118:18–119:12	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	

Deponent: Chris Fant, January 12, 2022		
Relators' Designation	Exactech's Objections	Exactech's Counter Designations
27:2–145:7 ³	See below.	Relators have designated the entire deposition transcript with the exception of the introductory admonitions and background questions. Exactech reserves the right to counter designate any portion of Mr. Fant's transcript should Relators decide not to read the entire transcript at trial.
43:6–54:2	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation; lawyer testifying; hearsay.	
57:17–59:22	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
65:22–68:2	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
75:20–80:16	401; 403; lawyer testifying; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
84:20–85:15	Lawyer statement (not testimony).	
92:10–94:5	Lawyer statement (not testimony).	

³ Relators designated pages 27:2–145:7 of Mr. Fant's deposition, comprising the entire deposition transcript with the exception of the introductory admonitions and background questions.

120:7–122:5	Relevance; 401; 403; lawyer statement (not testimony).	
122:6-125:10	Relevance; 401; 403.	
131:4-132:22	401; 403; calls for speculation; lack of foundation.	
134:13-137:4	401; 403; misstates or mischaracterizes evidence; calls for speculation; lack of foundation.	
137:5–137:22	401; 403; misstates or mischaracterizes the evidence; lack of foundation; calls for speculation.	
143:9-18	401; 403; misstates or mischaracterizes evidence; calls for speculation; lack of foundation.	
144:22–145:9	Lawyer statement (not testimony).	
Deponent: Christopher Hutchins, M.D. November 19, 2021		
1:1-136:13 ⁴	See below.	Relators have designated the entire deposition transcript. Exactech reserves the right to counter designate any portion of Dr. Hutchins's transcript should Relators decide not to read the entire transcript at trial.
27:1 – 27:5	Lawyer statement (not testimony).	
37:7 – 37:15	Lack of foundation; 401; 403; Hearsay.	
37:19 – 40:11	Lack of foundation; 401; 403; Hearsay.	
42:20 – 43:19	Lack of foundation; 401; 403; Hearsay.	
49:19 – 50:17	401; 403.	
50:18 – 50:23	602.	

⁴ Relators designated pages 1:1-136:13 of Dr. Hutchins's deposition, which is the entire transcript.

54:19 – 55:2	401; 403; 602.	
55:10 – 56:11	401; 403; Lawyer testifying.	
57:4 – 57:11	401; 403; Lawyer testifying; misstates or mischaracterizes the evidence.	
59:20 – 59:23	401; 403; Lawyer testifying; misstates or mischaracterizes the evidence.	
60:21 – 62:13	401; 403; Lawyer testifying; misstates or mischaracterizes the evidence.	
62:20 – 62:23	Hearsay.	
65:4 – 66:14	401; 403.	
71:2 – 71:16	Speculation; Improper opinion; lack of foundation; 401; 403.	
72:22 – 72:23	401; 403.	
74:6 – 76:14	401; 403.	
74:15 – 75:5	401; 403; lack of foundation.	
87:10 – 88:15	Speculation; 602.	
92:2 – 92:4	Speculation; 602.	
96:10 – 97:7	Speculation; 602; Hearsay.	
97:13 – 97:20	Hearsay.	
98:7 – 98:20	Lawyer statements (not testimony).	
105:13 – 106:21	401; 403; 404.	
107:7 – 111:10	401; 403; 404; Speculation (regarding 109:21-22); Improper Opinion; lack of foundation.	
123:10 – 124:17	Speculation; lack of foundation.	
124:23 – 125:22	Leading; lack of foundation; 401; 403.	
127:21 – 129:13	Leading; Speculation; 602; 401; 403.	
130:3 – 131:8	Speculation; 602; 401; 403.	
131:16 – 132:13	Speculation; 602; 401; 403.	
133:9 – 135:9	Speculation; 602.	

Exactech reserves the right to amend or supplement its objections to Relators' Deposition Designations.

/s/ Harlan I. Prater, IV

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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of November, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to all attorneys of record.

/s/ Harlan I. Prater, IV